

*Original*

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
<b>FILED</b>
<b>AG 16 2000</b>
CLERK, U.S. DISTRICT COURT
By <u>Deputy</u>

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

AMERICAN REALTY TRUST, INC.

Plaintiff,

vs.

MATISSE CAPITAL PARTNERS, LLC,  
PAUL BAGLEY and JACK TAKACS

Defendants.

§ CIVIL ACTION NO. \_\_\_\_\_

§ **3 - 00 CV 1801 - R**

**NOTICE OF REMOVAL**

Defendants Matisse Capital Partners, LLC, Paul Bagley and Jack Takacs, respectfully petition this Court for removal of the above-entitled action to the United States District Court for the Northern District of Texas, Dallas Division from the Dallas County 298th Judicial District Court, State of Texas, and for their Notice of Removal state:

1. On June 26, 2000, Plaintiff commenced the above-entitled action in the 298th District Court, in Dallas County, Texas, entitled *American Realty Trust, Inc. v. Matisse Partners, LLC, Paul Bagley and Jack Takacs*; Cause No. 00-04728. Defendants received notice of the lawsuit on July 17, 2000, the date they received copies of the Petition from the Texas Secretary of State. Defendants Matisse Capital Partners, LLC and Paul Bagley in this matter have filed a Special Appearance to Present Objection to Jurisdiction, and Original Answer Subject Thereto, and Defendant Jack Takacs has filed an Original Answer in the state court proceeding. No orders have been entered by the Court. Pursuant to 28 U.S.C. § 1446(a), a copy of Plaintiff's Original Petition filed and served on Defendants along with Defendant Jack Takacs' Original Answer and Defendants

**NOTICE OF REMOVAL - Page 1**

Matisse Partners, LLC and Paul Bagley's Special Appearance to Present Objection to Jurisdiction, and Original Answer Subject Thereto are attached hereto as Exhibit A. No return of citation is on file in the office of the state court clerk. An index of matters being filed and a list of all counsel of record are attached hereto as Exhibit B. A certified copy of the docket sheet is being filed contemporaneously with this Notice of Removal.

2. The above-entitled action constitutes a claim by Plaintiff to recover under a contract between it and Defendant Matisse Capital Partners, LLC and for breaches of fiduciary duty allegedly committed by Defendants.

3. This Court has jurisdiction over the issues presented in Plaintiff's Original Petition pursuant to 28 U.S.C. § 1332(a) (diversity). As an action of a civil nature where the matter in controversy exceeds the sum or value of \$75,000.00, and is between citizens of different states, this action may be removed to this Court pursuant to 28 U.S.C. § 1441(a) and (b).

4. Thirty days have not elapsed since the receipt by Defendants, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action is based. This Notice of Removal is, therefore, being filed within the time period required by law.

5. Written notice of the filing of this Notice of Removal will be given to the adverse party as required by law.

6. A true and correct copy of this Notice of Removal will be promptly filed with the Clerk of the 298th Judicial Court of Dallas County, Texas, as provided by law.

WHEREFORE, Defendants respectfully pray that the above-entitled action now pending in the 298th District Court of Dallas County, Texas, be removed to this Court.

**NOTICE OF REMOVAL - Page 2**

Respectfully submitted,



Paul E. Ridley  
State Bar No. 16901400  
Michael D. Napoli  
State Bar No. 14803400

WOLIN, RIDLEY & MILLER, LLP  
3100 Bank One Center  
1717 Main Street  
Dallas, Texas 75201  
Telephone: (214) 939-4900  
Telecopier: (214) 939-4949

ATTORNEYS FOR DEFENDANTS  
MATISSE CAPITAL PARTNERS, LLC,  
PAUL BAGLEY AND JACK TAKACS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing Notice of Removal was forwarded by certified mail, return receipt requested, on this 16<sup>th</sup> day of August, 2000, to counsel of record as follows:

Lawrence J. Friedman  
Friedman, Driegert & Hsueh, L.L.C.  
8117 Preston Road, Suite 570  
Dallas, Texas 75225

  
Michael D. Napoli